

CENTRAL INTELLIGENCE AGENCY

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INFORMATION REPORT

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The Prosecutor and his Assistants

- Article 62 of the Bulgarian constitution declares the prosecutor to be the highest authority to enforce compliance with the law by citizens and state officials. Article 63 designates the state attorney general as the supreme prosecutor and states that he is to be elected by Parliament for five years. All other prosecutors are responsible only to their superiors, and the top prosecutors are responsible only to the state attorney general.
- The prosecutor controls the execution of the law, of government orders, of internal instructions of the collective farms (TKZS), of ordinances of the Council of Ministers, and of ordinances of the Central Committee of the Communist Party. He supervises arrests, detentions, execution of court sentences, and follows the course of the processes. He is authorized to request documents from both civilians and government offices when he deems such documents necessary for investigation of their actions. He can intervene in private lawsuits in the name of the public interest and, in such cases, the suit cannot be settled by agreement between the two parties.
- The office of the state attorney general (Prokuratura) is unified and centralized. It includes the office of the military prosecutor (Voenna Prokuratura), the office of the military prosecutor of the Ministry of the Interior (Prokuratura M.V.R.), and the office of the prosecutor for transport cases.
- The military prosecutor of the Ministry of Defense is ranked as a deputy attorney general and is assisted by district prosecutors as the need arises. Military prosecutors, their deputies, military investigators, legal supervisors, chief justices of military courts of the first grade, and members of these courts must be graduates of law schools. They are all legal officers.

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and components of the legal section of the Army. Military prosecutors are responsible for service personnel and for civilians who work under Army control. They are further empowered to demand explanations from civilians in any matter which concerns Army interests or Army regulation.

5. The office of the military prosecutor in the Ministry of the Interior is a central authority, competent for the entire country. The military prosecutor may appoint, with the approval of the Minister of the Interior, prosecutors for certain parts of the country, irrespective of the administrative divisions of the state administration, or for certain departments of the office, corresponding to military units.
6. The office of the prosecutor for transport cases does not have an independent chief prosecutor. Prosecutors and investigators are assigned, based on the budget of the Ministry of Transport, in the organization plan of the Prokuratura. The state attorney general is also chief of this office.
7. Legal officers of the Army and of the Ministry of the Interior, prosecutors excepted, are appointed by the Presidium of the Parliament on recommendation by the Minister of Defense or Minister of the Interior respectively.
8. The constitution specifies that the prosecutor must give written instructions for execution of a legal investigation; however, in practice, investigations are made before receipt of instructions. The Militia and the Army must notify the prosecutor of each case of detention not later than 48 hours after occurrence, and the prosecutor must immediately confirm or cancel the detention. He can confirm it for investigative purposes for two weeks and, if this is not sufficient, can extend it an additional month. All material resulting from an investigation is forwarded to the prosecutor for examination and initiation of a criminal file, if the latter is necessary.

Courts

9. Ordinary courts include People's courts, district courts, and the Supreme Court of Bulgaria. In practice, there are only two instances of jurisdiction for each case: a verdict by a People's court can be appealed to the district court, but a verdict by a district court can be appealed to the Supreme Court only through the "revision" process, which requires submission of new evidence and is limited to a purely legal examination of the previous verdict. If the Supreme Court finds that new proceedings are necessary, it sends the case back to the district court or to the People's court for renewal of proceedings under different judges.
10. Judges and members of courts must be graduates of law schools and have passed the state examinations; they must not have been fascists or adversaries of the present regime; they must not have been sentenced to imprisonment for political or criminal offenses. Members of an Army military court must all be at least one rank higher than the accused, unless the latter is of general rank. Every official of the Ministry of the Interior is qualified to serve as a member of the military court of that ministry.
11. Special courts include military courts, the military court of the Ministry of the Interior, and the court for transport cases. The military courts are located at various places in the country, and the military court of the Ministry of the Interior is located in Sofia. Additional courts may be instituted at other places upon joint instructions from the Ministry of Justice and the Ministry of the Interior. The court for transport cases is located in Sofia.
12. Judges are appointed as follows:
 - a. Judges and court members of People's courts are elected by popular vote for three years.
 - b. Judges and court members of district courts are elected by the district

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council for five years.

- c. Judges of the Supreme Court are elected by Parliament for five years.
 - d. Notaries public and judges of the execution department are appointed by the Minister of Justice.
12. The composition of all ordinary and special courts in all first instances of jurisdiction, Supreme Court excepted, is one judge and two other court members. The Supreme Court is composed of a president, two judges, and four court members. In the second instance of jurisdiction, following an appeal or "revision," the district courts and the Supreme Court are composed of three judges.
13. Before dealing with any case the court concerned must hold a preliminary session to decide if the case is to be tried at all. These preliminary sessions enable the judges and the prosecutor to decide upon the course of the trial and to correct and adapt all necessary details for either condemnation or acquittal of the accused. The practice of preliminary sessions is one of the most important of the Bulgarian legal system and is modeled after the Soviet pattern. The composition of a preliminary session in a People's court is one judge and two court members. In all other courts only three judges participate.

Judicial Competences of the Special Courts

14. The military courts of the Ministry of Defense are competent for all offenses by military personnel and by civilians who are working for the Army and receiving pay and instructions from the Army, if such offenses are regarded as military. If the offense is not considered military, the case is transferred to a civilian court; in practice, however, each Army employee is judged by the military courts. The military courts are also competent for civilians who are accused of:
- a. Sabotage against military installations,
 - b. Undermining of Army discipline or morale,
 - c. Violating the integrity of the Army in any way, and
 - d. Offenses committed in collaboration with Army personnel.

Military courts base judgments on the military Penal Code and supplementary special laws.

15. The military court of the Ministry of the Interior is competent for offenses committed by officials and employees of the Ministry and for civilians whose acts interfere with the status, task, and integrity of all the quasi-military formations of the Ministry of the Interior (Militia, plain-clothes security personnel, Border Guards, and other special forces).
16. The court for transport cases is competent for all transport employees and workers who are charged with offenses against the work, the safety of the roads, the work discipline, and the government of Bulgaria or "socialism." This court is further competent for all civilians who collaborate with transport employees in such offenses.

Attorneys

17. According to the Bulgarian constitution, anyone who has graduated from a law school and who has passed the state examination and required work period can be an attorney, provided that he has not been deprived of his political rights. The situation in practice is quite different. There are now in Sofia approximately 1,250 attorneys, organized in collectives, who believe that shortly an ordinance will be promulgated which will prohibit approximately 40 percent of them from continuing in their profession. Those ex-

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cluded will probably be forced to work as clerks.

18. The attorneys' collectives have from 15 to 50 members, and the managing council of the collective has from five to 15 members, depending upon the size of the collective. Anyone who wishes to consult an attorney must make his request through the collective's secretary, who then assigns an attorney to deal with the problem. In practice, the client still selects the attorney; if he is assigned any attorney except the one he wants, he will simply turn to another collective. Payment for legal assistance is paid only to the collective's secretary. An attorney who has not worked during the designated pay period does not receive any money from the collective, but he is debited with the membership fee for the collective and with taxes. From earnings up to 1,000 leva each attorney receives 55 percent of the fees for his work, and the remainder is retained for taxes, membership fees, and other expenses. From earnings above 1,000 leva each attorney receives only 35 percent of the fees paid for his work.
19. The Ministry of Justice is responsible for supervising attorneys' work. Any attorney who blunders or takes money privately, a practice which most attorneys follow, is subject to punishment, theoretically at least.
20. All attorneys have theoretically equal rights under the constitution; in practice, however, not all attorneys can appear before the special courts. This distinction is rigidly enforced, and the attorneys themselves do not like to mention it.

Communist and Soviet Influence on Bulgarian Law

21. Bulgarian courts are publicly stressed as "law courts of a class - of the workers' class, of the proletariat." Professor Stefan Pavlov, chair for criminal law at Sofia University, states in his Criminal Law of the Republic of Bulgaria:

"The aim of this book is to explain and to state clearly that our law is Marxian in character, communal-political, a class law."

While it is true that judges are elected, the absolute Communist majority in all councils and commissions makes it impossible to elect a non-Communist.

22. Bulgarian law makes it formally possible for the Communist Party to dominate the judiciary, as evidenced in Paragraph 2 of the "Bill of Contracts and Debts":

"The decisions of the judge must be logical, and if in any particular case the law is not clear, it must be interpreted in a spirit corresponding to the demands of the socialist community. If there is no such possibility, the verdict must be based on the fundamentals of socialist law."

The concept of "demands of the socialist community" has been taken from Paragraph 130 of the Soviet constitution.

23. The majority of legal textbooks used in law schools are translations of Soviet textbooks, include the following:
 - a. Soviet Civil Law by Gankin, Bartos, Lunz, and Novitski
 - b. Marriage and Divorce and The Soviet Family by Sverdlov
 - c. Civil Procedure by Chaparski, Abramov, and Shkodin
 - d. History of the State and the Law by Galneza, Kachanan, and others

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d. The Purpose of Science in Soviet Law by Vyshinsky.Miscellaneous Information

24. Secret Instructions (Poveritelni Posstanovlenia), issued by the Council of Ministers, bear decisively at times upon the course of a trial. Although not promulgated in the Official Gazette, these Instructions have legal validity. All prosecutors are notified of these Instructions, but not the judge of the People's or district court. Although such instructions deal generally with particular plants and factories, they may have also a wider meaning. In April 1953, the Official Gazette announced that a workers' dividend (Trudova Dividenda) would be paid to the workers at leather factories and that the dividend would amount to 50 percent of the total profit. The dividend was paid, but in September 1953 the matter was reconsidered, with the result that all recipients of the dividend were asked to refund 20 percent. No one did so. In late November 1953, criminal proceedings were opened against all concerned, and the first cases were heard in early December 1953. The prosecutors informed the court members and the counsels for defense that a Secret Instruction, cited by date and number, reduced with retroactive force the dividend from 50 percent to 30 percent.
25. A special card, sometimes called "Legal Identity Card," is prepared for every person who appears as the accused before Bulgarian courts. The card contains a great many personal details about the accused, his family up to his grandparents, their occupations, their party affiliations, and his own party affiliation. This card is a decisive factor in the attitude of the presiding judge and court members toward the accused.

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